

AMENDED IN SENATE AUGUST 5, 2004
AMENDED IN ASSEMBLY MAY 10, 2004
AMENDED IN ASSEMBLY MARCH 30, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2856

Introduced by Assembly Member Laird

February 20, 2004

An act to amend ~~Section 17556~~ of *Section 44763 of the Education Code*, and to amend Sections 17500, 17513, 17520, 17521, 17522, 17526, 17551, 17553, 17554, 17557, 17558, 17558.5, 17561, 17561.5, 17561.6, 17562, 17564, 17579, 17612, 17615.1, 17616, and 17630 of, to add Sections 17517.5 and 17518.5 to, to repeal Sections 17517, 17610, and 17614 of, and to repeal and add Section 17555 of, the Government Code, relating to state mandates.

LEGISLATIVE COUNSEL'S DIGEST

AB 2856, as amended, Laird. State mandates: Commission on State Mandates.

Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, including school districts, the state is required to provide a subvention of funds to reimburse the local government, with specified exceptions. Existing law establishes a procedure for local governmental agencies to file claims for reimbursement of these costs with the Commission on State Mandates. The procedure requires the commission to hear and decide upon each claim for reimbursement and provides that the commission may not find costs to be mandated by the

state if, after a hearing, the commission makes specified findings, including, among others, that the statute or executive order imposing the mandate provides for offsetting savings to local agencies or school districts or includes additional revenue specifically intended to sufficiently fund the cost of the state mandate. *The procedure provides for payment of claims from the State Mandates Claim Fund and pursuant to a local government claims bill.*

~~This bill would provide that an appropriation in a Budget Act or other bill, in addition to the executive order or statute imposing the mandate, may provide these offsetting savings or additional revenue revise the procedures for receiving claims and for hearings on claims, as specified. The bill would revise the definitions of terms related to the procedure and hearings and define additional terms. The bill would abolish the State Mandates Claim Fund and delete the option of paying claims from this fund. The bill would make other technical changes and delete obsolete references.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 17556 of the Government Code is~~
- 2 *SECTION 1. Section 44763 of the Education Code is*
- 3 *amended to read:*
- 4 44763. (a) Notwithstanding Title 1.8 (commencing with
- 5 Section 1798) of Part 4 of Division 3 of the Civil Code or any other
- 6 provision of law, each state and local government agency shall
- 7 provide to the Commission on Teacher Credentialing personal
- 8 information regarding teachers and other certificated personnel as
- 9 requested by the commission for the purposes of Section 44762.
- 10 ~~The Legislature shall transfer for each fiscal year, from the~~
- 11 ~~Teacher Credentials Fund to the State Mandates Claims Fund, that~~
- 12 ~~amount necessary for the payment for that year from the State~~
- 13 ~~Mandates Claims Fund, pursuant to Part 7 (commencing with~~
- 14 ~~Section 17500) of Division 4 of Title 2 of the Government Code,~~
- 15 ~~of claims for reimbursement to local government agencies that are~~
- 16 ~~based upon the requirement set forth in this subdivision.~~
- 17 (b) In accordance with the purpose of safeguarding the privacy
- 18 rights of individuals, it is the intent of the Legislature that personal
- 19 information be collected, maintained, and disseminated under this

chapter only to the extent required to accomplish the purposes of Section 44762. The Commission on Teacher Credentialing shall establish and maintain specific and appropriate policies and practices that protect the privacy rights of individuals as to whom personal information has been received by the commission, and to otherwise implement the legislative intent set forth in this subdivision.

SEC. 2. Section 17500 of the Government Code is amended to read:

17500. The Legislature finds and declares that the existing system for reimbursing local agencies and school districts for the costs of state-mandated local programs has not provided for the effective determination of the state's responsibilities under Section 6 of Article XIII B of the California Constitution. The Legislature finds and declares that the failure of the existing process to adequately and consistently resolve the complex legal questions involved in the determination of state-mandated costs has led to an increasing reliance by local agencies and school districts on the judiciary and, therefore, in order to relieve unnecessary congestion of the judicial system, it is necessary to create a mechanism which is capable of rendering sound quasi-judicial decisions and providing an effective means of resolving disputes over the existence of state-mandated local programs.

It is the intent of the Legislature in enacting this part to provide for the implementation of Section 6 of Article XIII B of the California Constitution ~~and to consolidate the procedures for reimbursement of statutes specified in the Revenue and Taxation Code with those identified in the Constitution.~~ Further, the Legislature intends that the Commission on State Mandates, as a quasi-judicial body, will act in a deliberative manner in accordance with the requirements of Section 6 of Article XIII B of the California Constitution.

SEC. 3. Section 17513 of the Government Code is amended to read:

17513. "Costs mandated by the federal government" means any increased costs incurred by a local agency or school district after January 1, 1973, in order to comply with the requirements of a federal statute or regulation. "Costs mandated by the federal government" includes costs resulting from enactment of a state

1 law or regulation where failure to enact that law or regulation to
2 meet specific federal program or service requirements *imposed*
3 *upon the state* would result in substantial monetary penalties or
4 loss of funds to public or private persons in the state *whether the*
5 *federal law was enacted before or after the enactment of the state*
6 *law, regulation, or executive order*. “Costs mandated by the
7 federal government” does not include costs which are specifically
8 reimbursed or funded by the federal or state government or
9 programs or services which may be implemented at the option of
10 the state, local agency, or school district.

11 SEC. 4. Section 17517 of the Government Code is repealed.

12 ~~17517. “Fund” means the State Mandates Claims Fund.~~

13 SEC. 5. Section 17517.5 is added to the Government Code, to
14 read:

15 17517.5. “Cost savings authorized by the state” means any
16 decreased costs that a local agency or school district realizes as
17 a result of any statute enacted or any executive order adopted that
18 permits or requires the discontinuance of or a reduction in the level
19 of service of an existing program that was mandated before
20 January 1, 1975.

21 SEC. 6. Section 17518.5 is added to the Government Code, to
22 read:

23 17518.5. (a) “Reasonable reimbursement methodology”
24 means a formula for reimbursing local agency and school district
25 costs mandated by the state that meets the following conditions:

26 (1) The total amount to be reimbursed statewide is equivalent
27 to total estimated local agency and school district costs to
28 implement the mandate in a cost-efficient manner.

29 (2) For 50 percent or more of eligible local agency and school
30 district claimants, the amount reimbursed is estimated to fully
31 offset their projected costs to implement the mandate in a
32 cost-efficient manner.

33 (b) Whenever possible, a reasonable reimbursement
34 methodology shall be based on general allocation formulas,
35 uniform cost allowances, and other approximations of local costs
36 mandated by the state, rather than detailed documentation of
37 actual local costs. In cases when local agencies and school
38 districts are projected to incur costs to implement a mandate over
39 a period of more than one fiscal year, the determination of a
40 reasonable reimbursement methodology may consider local costs

1 and state reimbursements over a period of greater than one fiscal
2 year, but not exceeding 10 years.

3 SEC. 7. Section 17520 of the Government Code is amended to
4 read:

5 17520. “Special district” means any agency of the state
6 ~~which~~ that performs governmental or proprietary functions within
7 limited boundaries. “Special district” includes a ~~redevelopment~~
8 ~~agency, a joint powers agency or entity,~~ a county service area, a
9 maintenance district or area, an improvement district or
10 improvement zone, or any other zone or area. “Special district”
11 does not include a city, a county, a school district, or a community
12 college district.

13 County free libraries established pursuant to Chapter 2
14 (commencing with Section 27151) of Division 20 of the Education
15 Code, areas receiving county fire protection services pursuant to
16 Section 25643 of the Government Code, and county road districts
17 established pursuant to Chapter 7 (commencing with Section
18 1550) of Division 2 of the Streets and Highways Code shall be
19 considered “special districts” for all purposes of this part.

20 SEC. 8. Section 17521 of the Government Code is amended to
21 read:

22 17521. “Test claim” means the first claim, ~~including claims~~
23 ~~joined or consolidated with the first claim,~~ filed with the
24 commission alleging that a particular statute or executive order
25 imposes costs mandated by the state.

26 SEC. 9. Section 17522 of the Government Code is amended to
27 read:

28 17522. (a) “Initial reimbursement claim” means a claim
29 filed with the Controller by a local agency or school district for
30 costs to be reimbursed for the fiscal years specified in the first
31 ~~statute that appropriates funds for reimbursement of the mandate~~
32 *claiming instructions issued by the Controller pursuant to*
33 *subdivision (b) of Section 17558.*

34 (b) “Annual reimbursement claim” means a claim for actual
35 costs incurred in a prior fiscal year filed with the Controller by a
36 local agency or school district for which appropriations are made
37 to the Controller for this purpose.

38 (c) “Estimated reimbursement claim” means a claim filed with
39 the Controller by a local agency or school district in conjunction
40 with an initial reimbursement claim, annual reimbursement claim,

1 or at other times, for estimated costs to be reimbursed during the
2 current or future fiscal years, for which appropriations are made
3 to the Controller for this purpose.

4 (d) "Entitlement claim" means a claim filed by a local agency
5 or school district with the Controller for the purpose of
6 establishing or adjusting a base year entitlement. All entitlement
7 claims are subject to Section 17616.

8 *SEC. 10. Section 17526 of the Government Code is amended*
9 *to read:*

10 17526. (a) All meetings of the commission shall be open to
11 the public, except that the commission may meet in executive
12 session to consider the appointment or dismissal of officers or
13 employees of the commission or to hear complaints or charges
14 brought against a member, officer, or employee of the
15 commission.

16 (b) The commission shall meet at least once every two months.

17 (c) The time and place of meetings may be set by resolution of
18 the commission, by written petition of a majority of the members,
19 or by written call of the chairperson. The chairperson may, for
20 good cause, change the starting time or place, reschedule, or cancel
21 any meeting.

22 ~~(d) This section shall become operative on July 1, 1996.~~

23 *SEC. 11. Section 17551 of the Government Code is amended*
24 *to read:*

25 17551. (a) The commission, pursuant to the provisions of
26 this chapter, shall hear and decide upon a claim by a local agency
27 or school district that the local agency or school district is entitled
28 to be reimbursed by the state for costs mandated by the state as
29 required by Section 6 of Article XIII B of the California
30 Constitution.

31 (b) Commission review of claims may be had pursuant to
32 subdivision (a) only if the test claim is filed within the time limits
33 specified in this section.

34 (c) Local agency and school district test claims shall be filed
35 not later than ~~three years following the date the mandate became~~
36 ~~effective, or in the case of mandates that became effective before~~
37 ~~January 1, 2002, the time limit shall be one year from the effective~~
38 ~~date of this subdivision~~ *12 months following the effective date of*
39 *a statute or executive order, or within 12 months of incurring*

1 *increased costs as a result of a statute or executive order,*
2 *whichever is later.*

3 (d) The commission, pursuant to the provisions of this chapter,
4 shall hear and decide upon a claim by a local agency or school
5 district filed on or after January 1, 1985, that the Controller has
6 incorrectly reduced payments to the local agency or school district
7 pursuant to paragraph (2) of subdivision (d) of Section 17561.

8 *SEC. 12. Section 17553 of the Government Code is amended*
9 *to read:*

10 17553. (a) The commission shall adopt procedures for
11 receiving claims pursuant to this article and for providing a hearing
12 on those claims. ~~The hearing procedure shall provide procedures~~
13 *shall do all of the following:*

14 (1) *Provide* for presentation of evidence by the claimant, the
15 Department of Finance and any other affected department or
16 agency, and any other interested person. ~~The procedures shall~~
17 *ensure*

18 (2) *Ensure* that a statewide cost estimate is adopted within 12
19 months after receipt of a test claim, when a determination is made
20 by the commission that a mandate exists. This deadline may be
21 extended for up to six months upon the request of either the
22 claimant or the commission. ~~Hearing~~

23 (3) *Permit the hearing* of a claim ~~may~~ to be postponed at the
24 request of the claimant, without prejudice, until the next scheduled
25 hearing.

26 (b) ~~The procedures adopted by the commission pursuant to~~
27 ~~subdivision (a) shall include the following:~~

28 (1) ~~Provisions for acceptance of more than one claim on the~~
29 ~~same statute or executive order relating to the same statute or~~
30 ~~executive order filed with the commission, and, absent agreement~~
31 ~~by the test claimants to the contrary, to designate the first to file as~~
32 ~~the lead test claimant.~~

33 (2) ~~Provisions for consolidating test claims relating to the same~~
34 ~~statute or executive order filed with the commission with time~~
35 ~~limits that do not exceed 90 days from the initial filing for~~
36 ~~consolidating the test claims and for claimants to designate a single~~
37 ~~contact for information regarding the test claim.~~

38 (3) ~~Provisions for claimants to designate a single claimant for~~
39 ~~a test claim relating to the same statute or executive order filed with~~
40 ~~the commission, with time limits that do not exceed 90 days from~~

~~the initial filing for making that designation.~~ All test claims shall be filed on a form prescribed by the commission and shall contain at least the following elements and documents:

(1) A written narrative that identifies the specific sections of statutes or executive orders alleged to contain a mandate and shall include all of the following:

(A) A detailed description of the new activities and costs that arise from the mandate.

(B) A detailed description of existing activities and costs that are modified by the mandate.

(C) The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate.

(D) The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.

(E) A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.

(F) Identification of all of the following:

(i) Dedicated state funds appropriated for this program.

(ii) Dedicated federal funds appropriated for this program.

(iii) Other nonlocal agency funds dedicated for this program.

(iv) The local agency's general purpose funds for this program.

(v) Fee authority to offset the costs of this program.

(G) Identification of prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate.

(2) The written narrative shall be supported with declarations under penalty of perjury, based on the declarant's personal knowledge, information or belief, and signed by persons who are authorized and competent to do so, as follows:

(A) Declarations of actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate.

(B) Declarations identifying all local, state, or federal funds, or fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs.

1 (C) *Declarations describing new activities performed to*
2 *implement specified provisions of the new statute or executive*
3 *order alleged to impose a reimbursable state-mandated program.*
4 *Specific references shall be made to chapters, articles, sections, or*
5 *page numbers alleged to impose a reimbursable state-mandated*
6 *program.*

7 (3) (A) *The written narrative shall be supported with copies of*
8 *all of the following:*

9 (i) *The test claim statute that includes the bill number or*
10 *executive order, alleged to impose or impact a mandate.*

11 (ii) *Relevant portions of state constitutional provisions, federal*
12 *statutes, and executive orders that may impact the alleged*
13 *mandate.*

14 (iii) *Administrative decisions and court decisions cited in the*
15 *narrative.*

16 (B) *State mandate determinations made by the Board of*
17 *Control and the Commission on State Mandates and published*
18 *court decisions on state mandate determinations made by the*
19 *Commission on State Mandates are exempt from this requirement.*

20 (4) *A test claim shall be signed at the end of the document,*
21 *under penalty of perjury by the claimant or its authorized*
22 *representative, with the declaration that the test claim is true and*
23 *complete to the best of the declarant's personal knowledge or*
24 *information or belief. The date of signing, the declarant's title,*
25 *address, telephone number, facsimile machine telephone number,*
26 *and electronic mail address shall be included.*

27 (c) *If a completed test claim is not received by the commission*
28 *within 30 calendar days from the date that an incomplete test claim*
29 *was returned by the commission, the original test claim filing date*
30 *may be disallowed, and a new test claim may be accepted on the*
31 *same statute or executive order.*

32 (d) *In addition, the commission shall determine whether an*
33 *incorrect reduction claim is complete within 10 days after the date*
34 *that the incorrect reduction claim is filed. If the commission*
35 *determines that an incorrect reduction claim is not complete, the*
36 *commission shall notify the local agency and school district that*
37 *filed the claim stating the reasons that the claim is not complete.*
38 *The local agency or school district shall have 30 days to complete*
39 *the claim. The commission shall serve a copy of the complete*
40 *incorrect reduction claim on the Controller. The Controller shall*

1 have no more than 90 days after the date the claim is delivered or
2 mailed to file any rebuttal to an incorrect reduction claim. The
3 failure of the Controller to file a rebuttal to an incorrect reduction
4 claim shall not serve to delay the consideration of the claim by the
5 commission.

6 *SEC. 13. Section 17554 of the Government Code is amended*
7 *to read:*

8 17554. With the agreement of all parties to the claim, the
9 commission may waive the application of any procedural
10 requirement imposed by this chapter or pursuant to Section 17553
11 ~~in order to expedite action on the claim.~~ The authority granted by
12 this section includes the consolidation of claims and the shortening
13 of time periods.

14 *SEC. 14. Section 17555 of the Government Code is repealed.*

15 ~~17555. (a) The commission, within 10 days after receipt of a~~
16 ~~test claim based upon a statute or executive order, shall set a date~~
17 ~~for a public hearing on the claim within 75 days. The test claim~~
18 ~~may be based upon estimated costs that a local agency or school~~
19 ~~district may incur as a result of the statute or executive order and~~
20 ~~may be filed at any time after the statute is enacted or the executive~~
21 ~~order is adopted. The claim shall be submitted in a form prescribed~~
22 ~~by the commission. After a hearing in which the claimant and any~~
23 ~~other interested organization or individual may participate, the~~
24 ~~commission shall determine if there are costs mandated by the~~
25 ~~state.~~

26 ~~(b) This section shall become operative on July 1, 1996.~~

27 *SEC. 15. Section 17555 is added to the Government Code, to*
28 *read:*

29 17555. (a) No later than 30 days after hearing and deciding
30 upon a test claim pursuant to subdivision (a) of Section 17551, the
31 commission shall notify the appropriate Senate and Assembly
32 policy and fiscal committees, the Legislative Analyst, the
33 Department of Finance, and the Controller of that decision.

34 (b) For purposes of this section, the “appropriate policy
35 committee” means the policy committee that has jurisdiction over
36 the subject matter of the statute, regulation, or executive order, and
37 bills relating to that subject matter would have been heard.

38 *SEC. 16. Section 17557 of the Government Code is amended*
39 *to read:*

1 17557. (a) If the commission determines there are costs
 2 mandated by the state pursuant to Section 17555, it shall determine
 3 the amount to be subvned to local agencies and school districts for
 4 reimbursement. In so doing it shall adopt parameters and
 5 guidelines for reimbursement of any claims relating to the statute
 6 or executive order. The successful test claimants shall submit
 7 proposed parameters and guidelines within 30 days of adoption of
 8 a statement of decision on a test claim. At the request of a
 9 successful test claimant, the commission may provide for one or
 10 more extensions of this 30-day period at any time prior to its
 11 adoption of the parameters and guidelines. If proposed parameters
 12 and guidelines are not submitted within the 30-day period and the
 13 commission has not granted an extension, then the commission
 14 shall notify the test claimant that the amount of reimbursement the
 15 test claimant is entitled to for the first 12 months of incurred costs
 16 will be reduced by 20 percent, unless the test claimant can
 17 demonstrate to the commission why an extension of the 30-day
 18 period is justified. ~~A local agency, school district, and the state may~~
 19 ~~file a claim or request with the commission to amend, modify, or~~
 20 ~~supplement the parameters or guidelines. The commission may,~~
 21 ~~after public notice and hearing, amend, modify, or supplement the~~
 22 ~~parameters and guidelines.~~

23 (b) In adopting parameters and guidelines, the commission
 24 may adopt an allocation formula or uniform allowance ~~which that~~
 25 would provide for reimbursement of each local agency or school
 26 district of a specified amount each year.

27 (c) The parameters and guidelines adopted by the commission
 28 shall specify the fiscal years for which local agencies and school
 29 districts shall be reimbursed for costs incurred, ~~provided, however,~~
 30 ~~that incurred. However,~~ the commission ~~shall~~ may not specify
 31 ~~therein in the parameters and guidelines~~ any fiscal year for which
 32 payment could be provided in the annual Budget Act.

33 (d) *A local agency, school district, or the state may file a written*
 34 *request with the commission to amend, modify, or supplement the*
 35 *parameters or guidelines. The commission may, after public notice*
 36 *and hearing, amend, modify, or supplement the parameters and*
 37 *guidelines. A parameters and guidelines amendment submitted*
 38 *within 90 days of the claiming deadline for initial claims, as*
 39 *specified in the claiming instructions pursuant to Section 17561,*
 40 *shall apply to all years eligible for reimbursement as defined in the*

1 original parameters and guidelines. A parameters and guidelines
2 amendment filed more than 90 days after the claiming deadline for
3 initial claims, as specified in the claiming instructions pursuant to
4 Section 17561, and on or before January 15 following a fiscal year,
5 shall establish reimbursement eligibility for that fiscal year.

6 (e) A test claim shall be submitted on or before June 30
7 following a fiscal year in order to establish eligibility for
8 reimbursement for that fiscal year. The claimant may thereafter
9 amend the test claim at any time prior to a commission hearing on
10 the claim time, but before the test claim is set for a hearing, without
11 affecting the original filing date as long as the amendment
12 substantially relates to the original test claim.

13 (f) In adopting parameters and guidelines, the commission
14 shall consult with the Department of Finance, the affected state
15 agency, the Controller, the fiscal and policy committees of the
16 Assembly and Senate, the Legislative Analyst, and the claimants
17 to consider a reasonable reimbursement methodology that
18 balances accuracy with simplicity.

19 SEC. 17. Section 17558 of the Government Code is amended
20 to read:

21 17558. (a) The commission shall submit the adopted
22 parameters and guidelines to the Controller. All claims relating to
23 a statute or executive order that are filed after the determination of
24 the test claim adoption or amendment of parameters and
25 guidelines pursuant to Section 17557 shall be transferred to the
26 Controller who shall pay and audit the claims from funds made
27 available for that purpose.

28 (b) Not later than 60 days after receiving the adopted
29 parameters and guidelines from the commission, the Controller
30 shall issue claiming instructions for each mandate that requires
31 state reimbursement, to assist local agencies and school districts in
32 claiming costs to be reimbursed. In preparing claiming
33 instructions, the Controller shall request assistance from the
34 Department of Finance and may request the assistance of other
35 state agencies. The claiming instructions shall be derived from the
36 statute or executive order creating the mandate test claim decision
37 and the parameters and guidelines adopted by the commission.

38 (c) The Controller shall, within 60 days after receiving revised
39 adopted parameters and guidelines from the commission or other
40 information necessitating a revision of the claiming instructions,

1 prepare and issue revised claiming instructions for mandates that
2 require state reimbursement that have been established by
3 commission action pursuant to Section 17555 or after any decision
4 or order of the commission pursuant to Section 17551. In
5 preparing revised claiming instructions, the Controller may
6 request the assistance of other state agencies.

7 ~~(d) This section shall become operative on July 1, 1996.~~

8 *SEC. 18. Section 17558.5 of the Government Code is*
9 *amended to read:*

10 17558.5. (a) A reimbursement claim for actual costs filed by
11 a local agency or school district pursuant to this chapter is subject
12 to the initiation of an audit by the Controller no later than three
13 years after the date that the actual reimbursement claim is filed or
14 last amended, whichever is later. However, if no funds are
15 appropriated or no payment is made to a claimant for the program
16 for the fiscal year for which the claim is filed, the time for the
17 Controller to initiate an audit shall commence to run from the date
18 of initial payment of the claim. *In any case, an audit shall be*
19 *completed not later than two years after the date that the audit is*
20 *commenced.*

21 (b) *The Controller may conduct a field review of any claim after*
22 *the claim has been submitted, prior to the reimbursement of the*
23 *claim.*

24 (c) The Controller shall notify the claimant in writing within 30
25 days after issuance of a remittance advice of any adjustment to a
26 claim for reimbursement that results from an audit or review. The
27 notification shall specify the claim components adjusted, the
28 amounts adjusted, interest charges on claims adjusted to reduce the
29 overall reimbursement to the local agency or school district, and
30 the reason for the adjustment. Remittance advices and other
31 notices of payment action shall not constitute notice of adjustment
32 from an audit or review.

33 ~~(e)~~

34 (d) The interest rate charged by the Controller on reduced
35 claims shall be set at the Pooled Money Investment Account rate
36 and shall be imposed on the dollar amount of the overpaid claim
37 from the time the claim was paid until overpayment is satisfied.

38 ~~(d)~~

39 (e) Nothing in this section shall be construed to limit the
40 adjustment of payments when inaccuracies are determined to be

1 the result of the intent to defraud, or when a delay in the completion
2 of an audit is the result of willful acts by the claimant or inability
3 to reach agreement on terms of final settlement.

4 *SEC. 19. Section 17561 of the Government Code is amended*
5 *to read:*

6 17561. (a) The state shall reimburse each local agency and
7 school district for all “costs mandated by the state,” as defined in
8 Section 17514.

9 (b) (1) For the initial fiscal year during which these costs are
10 incurred, reimbursement funds shall be provided as follows:

11 (A) Any statute mandating these costs shall provide an
12 appropriation therefor.

13 (B) Any executive order mandating these costs shall be
14 accompanied by a bill appropriating the funds therefor, or
15 alternatively, an appropriation for these costs shall be included in
16 the Budget Bill for the next succeeding fiscal year. The executive
17 order shall cite that item of appropriation in the Budget Bill or that
18 appropriation in any other bill which is intended to serve as the
19 source from which the Controller may pay the claims of local
20 agencies and school districts.

21 (2) In subsequent fiscal years appropriations for these costs
22 shall be included in the annual Governor’s Budget and in the
23 accompanying Budget Bill. In addition, appropriations to
24 reimburse local agencies and school districts for continuing costs
25 resulting from chaptered bills or executive orders for which claims
26 have been awarded pursuant to subdivision (a) of Section 17551
27 shall be included in the annual Governor’s Budget and in the
28 accompanying Budget Bill subsequent to the enactment of the
29 local government claims bill pursuant to Section 17600 that
30 includes the amounts awarded relating to these chaptered bills or
31 executive orders.

32 (c) The amount appropriated to reimburse local agencies and
33 school districts for costs mandated by the state shall be
34 appropriated to the Controller for disbursement.

35 (d) The Controller shall pay any eligible claim pursuant to this
36 section within 60 days after the filing deadline for claims for
37 reimbursement or 15 days after the date the appropriation for the
38 claim is effective, whichever is later. The Controller shall disburse
39 reimbursement funds to local agencies or school districts if the
40 costs of these mandates are not payable to state agencies, or to state

agencies that would otherwise collect the costs of these mandates from local agencies or school districts in the form of fees, premiums, or payments. When disbursing reimbursement funds to local agencies or school districts, the Controller shall disburse them as follows:

(1) For initial reimbursement claims, the Controller shall issue claiming instructions to the relevant local agencies *and school districts* pursuant to Section 17558. Issuance of the claiming instructions shall constitute a notice of the right of the local agencies and school districts to file reimbursement claims, based upon parameters and guidelines adopted by the commission.

(A) When claiming instructions are issued by the Controller pursuant to Section 17558 for each mandate determined pursuant to Section 17555 that requires state reimbursement, each local agency or school district to which the mandate is applicable shall submit claims for initial fiscal year costs to the Controller within 120 days of the issuance date for the claiming instructions.

(B) When the commission is requested to review the claiming instructions pursuant to Section 17571, each local agency or school district to which the mandate is applicable shall submit a claim for reimbursement within 120 days after the commission reviews the claiming instructions for reimbursement issued by the Controller.

(C) If the local agency or school district does not submit a claim for reimbursement within the 120-day period, or submits a claim pursuant to revised claiming instructions, it may submit its claim for reimbursement as specified in Section 17560. The Controller shall pay these claims from the funds appropriated therefor, provided that the Controller (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, and (ii) may reduce any claim that the Controller determines is excessive or unreasonable.

(2) In subsequent fiscal years each local agency or school district shall submit its claims as specified in Section 17560. The Controller shall pay these claims from funds appropriated therefor, provided that the Controller (A) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, (B) may reduce any claim that the Controller determines is excessive or unreasonable, and (C) shall adjust the

1 payment to correct for any underpayments or overpayments which
2 occurred in previous fiscal years.

3 (3) When paying a timely filed claim for initial reimbursement,
4 the Controller shall withhold 20 percent of the amount of the claim
5 until the claim is audited to verify the actual amount of the
6 mandated costs. All initial reimbursement claims for all fiscal
7 years required to be filed on their initial filing date for a
8 state-mandated local program shall be considered as one claim for
9 the purpose of computing any late claim penalty. Any claim for
10 initial reimbursement filed after the filing deadline shall be
11 reduced by 10 percent of the amount that would have been allowed
12 had the claim been timely filed. The Controller may withhold
13 payment of any late claim for initial reimbursement until the next
14 deadline for funded claims unless sufficient funds are available to
15 pay the claim after all timely filed claims have been paid. In no case
16 ~~shall~~ may a reimbursement claim be paid if submitted more than
17 one year after the filing deadline specified in the Controller's
18 claiming instructions on funded mandates contained in a claims
19 bill.

20 *SEC. 20. Section 17561.5 of the Government Code is*
21 *amended to read:*

22 17561.5. ~~(a)~~—The payment of an initial reimbursement claim
23 by the Controller shall include accrued interest at the Pooled
24 Money Investment Account rate, if the payment is being made
25 more than 365 days after adoption of the statewide cost estimate
26 for an initial claim or, in the case of payment of a subsequent claim
27 relating to that same statute or executive order, if payment is being
28 made more than 60 days after the filing deadline for, or the actual
29 date of receipt of, the subsequent claim, whichever is later. In those
30 instances, interest shall begin to accrue as of the 366th day after
31 adoption of the statewide cost estimate for an initial claim and as
32 of the 61st day after the filing deadline for, or actual date of receipt
33 of, the subsequent claim, whichever is later.

34 ~~(b) This section shall become operative on July 1, 1996.~~

35 *SEC. 21. Section 17561.6 of the Government Code is*
36 *amended to read:*

37 17561.6. ~~(a)~~—A budget act item or appropriation pursuant to
38 this part for reimbursement of claims shall include an amount
39 necessary to reimburse any interest due pursuant to Section
40 17561.5.

1 ~~(b) This section shall become operative on July 1, 1996.~~

2 SEC. 22. *Section 17562 of the Government Code is amended*
3 *to read:*

4 17562. (a) The Legislature hereby finds and declares that the
5 increasing revenue constraints on state and local government and
6 the increasing costs of financing state-mandated local programs
7 make evaluation of state-mandated local programs imperative.
8 Accordingly, it is the intent of the Legislature to increase
9 information regarding state mandates and establish a method for
10 regularly reviewing the costs and benefits of state-mandated local
11 programs.

12 (b) The Controller shall submit a report to the Joint Legislative
13 Budget Committee and fiscal committees by January 1 of each
14 year. This report shall summarize, by state mandate, the total
15 amount of claims paid per fiscal year and the amount, if any, of
16 mandate deficiencies or surpluses. This report shall be made
17 available in an electronic spreadsheet format. The report shall
18 compare the annual cost of each mandate to the statewide cost
19 estimate adopted by the commission.

20 (c) After the commission submits its second semiannual report
21 to the Legislature pursuant to Section 17600, the Legislative
22 Analyst shall submit a report to the Joint Legislative Budget
23 Committee and legislative fiscal committees on the mandates
24 included in the commission's reports. The report shall make
25 recommendations as to whether the mandate should be repealed,
26 funded, suspended, or modified.

27 (d) In its annual analysis of the Budget Bill and based on
28 information provided pursuant to subdivision (b), the Legislative
29 Analyst shall identify mandates that significantly exceed the
30 statewide cost estimate adopted by the commission. The
31 Legislative Analyst shall make recommendations on whether the
32 mandate should be repealed, funded, suspended, or modified.

33 (e) (1) A statewide association of local agencies *or school*
34 *districts* or a Member of the Legislature may submit a proposal to
35 the Legislature recommending the elimination or modification of
36 a state-mandated local program. To make such a proposal, the
37 association or member shall submit a letter to the Chairs of the
38 Assembly Committee on *Education or the Assembly Committee on*
39 *Local Government, as the case may be*, and the Senate Committee
40 *on Education or the Senate Committee on Local Government, as*

1 *the case may be*, specifying the mandate and the concerns and
2 recommendations regarding the mandate. The association or
3 member shall include in the proposal all information relevant to
4 the conclusions. If the chairs of the committees desire additional
5 analysis of the submitted proposal, the chairs may refer the
6 proposal to the Legislative Analyst for review and comment. The
7 chairs of the committees may refer up to a total of 10 of these
8 proposals to the Legislative Analyst for review in any year.
9 Referrals shall be submitted to the Legislative Analyst by
10 December 1 of each year.

11 (2) The Legislative Analyst shall review and report to the
12 Legislature with regard to each proposal that is referred to the
13 office pursuant to paragraph (1). The Legislative Analyst shall
14 recommend that the Legislature adopt, reject, or modify the
15 proposal. The report and recommendations shall be submitted
16 annually to the Legislature by March 1 of the year subsequent to
17 the year in which referrals are submitted to the Legislative
18 Analyst.

19 (3) The Department of Finance shall review all statutes enacted
20 each year that contain provisions making inoperative ~~Section 2229~~
21 ~~or Section 2230 of the Revenue and Taxation Code or Section~~
22 17561 or Section 17565 that have resulted in costs or revenue
23 losses mandated by the state that were not identified when the
24 statute was enacted. The review shall identify the costs or revenue
25 losses involved in complying with the statutes. The Department of
26 Finance shall also review all statutes enacted each year that may
27 result in cost savings authorized by the state. The Department of
28 Finance shall submit an annual report of the review required by
29 this subdivision, together with the recommendations as it may
30 deem appropriate, by December 1 of each year.

31 (f) It is the intent of the Legislature that the Assembly
32 Committee on Local Government and the Senate Committee on
33 Local Government hold a joint hearing each year regarding the
34 following:

35 (1) The reports and recommendations submitted pursuant to
36 subdivision (e).

37 (2) The reports submitted pursuant to Sections 17570, 17600,
38 and 17601.

(3) Legislation to continue, eliminate, or modify any provision of law reviewed pursuant to this subdivision. The legislation may be by subject area or by year or years of enactment.

SEC. 23. Section 17564 of the Government Code is amended to read:

17564. (a) No claim shall be made pursuant to Sections 17551 and 17561, nor shall any payment be made on claims submitted pursuant to Sections 17551 and 17561, unless these claims exceed one thousand dollars (\$1,000), provided that a county superintendent of schools or county may submit a combined claim on behalf of school districts, direct service districts, or special districts within their county if the combined claim exceeds one thousand dollars (\$1,000) even if the individual school district's, direct service district's, or special district's claims do not each exceed one thousand dollars (\$1,000). The county superintendent of schools or the county shall determine if the submission of the combined claim is economically feasible and shall be responsible for disbursing the funds to each school, direct service, or special district. These combined claims may be filed only when the county superintendent of schools or the county is the fiscal agent for the districts. All subsequent claims based upon the same mandate shall only be filed in the combined form unless a school district, direct service district, or special district provides to the county superintendent of schools or county and to the Controller, at least 180 days prior to the deadline for filing the claim, a written notice of its intent to file a separate claim.

(b) Claims for direct and indirect costs filed pursuant to Section 17561 shall be filed in the manner prescribed in the parameters and guidelines *and claiming instructions*.

SEC. 24. Section 17579 of the Government Code is amended to read:

17579. ~~(a) Any bill introduced or amended on and after January 1, 1985, for which the Legislative Counsel has determined the bill will mandate a new program or higher level of service pursuant to Section 6 of Article XIII B of the California Constitution; shall contain a section specifying that reimbursement shall be made from the fund pursuant to Section 17610 when the amount of the claim has been determined pursuant to Article 1 (commencing with Section 17550) of this chapter or~~

1 ~~that there is no mandate or that the mandate is being disclaimed and~~
2 ~~the reason therefor.~~

3 ~~(b) Any bill introduced or amended on and after January 1,~~
4 ~~1985, may, but is not required to, contain an appropriation to~~
5 ~~provide reimbursement of costs mandated by the state.~~

6 *SEC. 25. Section 17610 of the Government Code is repealed.*

7 ~~17610. (a) The costs arising from a statute containing a~~
8 ~~statement that the statute mandates a new program or higher level~~
9 ~~of service and specifying that reimbursement shall be made from~~
10 ~~the fund shall, upon certification of the estimated statewide cost by~~
11 ~~the commission to the Controller, be paid from the fund, provided~~
12 ~~that the estimated statewide cost of the claim does not exceed one~~
13 ~~million dollars (\$1,000,000). The Controller shall receive, review,~~
14 ~~and pay reimbursement claims from the fund as the claims are~~
15 ~~received. Claims for initial reimbursement shall be filed with the~~
16 ~~Controller within 120 days from the date that the Controller issued~~
17 ~~claiming instructions on mandates funded by the fund. When~~
18 ~~paying a timely filed claim for initial reimbursement, the~~
19 ~~Controller shall withhold 20 percent of the amount of the claim~~
20 ~~until the claim is audited to verify the actual amount of the~~
21 ~~mandated cost. Any claim for initial reimbursement filed after the~~
22 ~~filing deadline shall be reduced by 10 percent of the amount which~~
23 ~~would have been allowed had the claim been timely filed, provided~~
24 ~~that the amount of this reduction shall not exceed one thousand~~
25 ~~dollars (\$1,000). The Controller may withhold payment of any~~
26 ~~initial reimbursement claim filed after the filing deadline until the~~
27 ~~next deadline for funding claims unless sufficient funds are~~
28 ~~available to pay the claim after all timely filed claims have been~~
29 ~~paid.~~

30 ~~(b) For purposes of this section, “estimated statewide cost”~~
31 ~~means the total amount of funds estimated to be necessary to~~
32 ~~reimburse all eligible local agencies and school districts for costs~~
33 ~~incurred as a result of the mandate during the first 12-month period~~
34 ~~following the operative date of the mandate.~~

35 ~~(c) For purposes of this section, “costs arising from a statute”~~
36 ~~means the total amount of funds necessary to reimburse eligible~~
37 ~~local agencies and school districts for costs incurred as a result of~~
38 ~~complying with a mandate for the fiscal years specified in the~~
39 ~~parameters and guidelines in accordance with Section 17557.~~

SEC. 26. Section 17612 of the Government Code is amended to read:

17612. (a) Immediately upon receipt of the report submitted by the commission pursuant to Section 17600, a local government claims bill shall be introduced in the Legislature. The local government claims bill, at the time of its introduction, shall provide for an appropriation sufficient to pay the estimated costs of these mandates ~~except where the costs have been or will be paid pursuant to Section 17610.~~

(b) The Legislature may amend, modify, or supplement the parameters and guidelines for mandates contained in the local government claims bill. If the Legislature amends, modifies, or supplements the parameters and guidelines, it shall make a declaration in the local government claims bill specifying the basis for the amendment, modification, or supplement.

(c) If the Legislature deletes from a local government claims bill funding for a mandate, the local agency or school district may file in the Superior Court of the County of Sacramento an action in declaratory relief to declare the mandate unenforceable and enjoin its enforcement.

SEC. 27. Section 17614 of the Government Code is repealed.

~~17614. There is hereby created the State Mandates Claims Fund. Notwithstanding Section 13340, money in the fund is continuously appropriated without regard to fiscal years for the sole purpose of paying claims pursuant to Section 17610.~~

SEC. 28. Section 17615.1 of the Government Code is amended to read:

17615.1. ~~Notwithstanding the provisions of Section 2231 of the Revenue and Taxation Code, the~~ The commission shall establish a procedure for reviewing, upon request, mandated cost programs for which appropriations have been made by the Legislature for the 1982–83, 1983–84, and 1984–85 fiscal years, or any three consecutive fiscal years thereafter. At the request of the Department of Finance, the Controller, or any local agency or school district receiving reimbursement for the mandated program, the commission shall review the mandated cost program to determine whether the program should be included in the State Mandates Apportionment System. If the commission determines that the State Mandates Apportionment System would accurately reflect the costs of the state mandated program, the commission

1 shall direct the Controller to include the program in the State
2 Mandates Apportionment System.

3 *SEC. 29. Section 17616 of the Government Code is amended*
4 *to read:*

5 17616. ~~Notwithstanding the provisions of Section 2231 of the~~
6 ~~Revenue and Taxation Code, the~~ The Controller shall have the
7 authority to do either or both of the following:

8 (a) Audit the fiscal years comprising the base year entitlement
9 no later than three years after the year in which the base year
10 entitlement is established. The results of such audits shall be used
11 to adjust the base year entitlements and any subsequent
12 apportionments based on that entitlement, in addition to adjusting
13 actual cost payments made for the base years audited.

14 (b) Verify that any local agency or school district receiving
15 funds pursuant to this article is providing the reimbursed activities.

16 *SEC. 30. Section 17630 of the Government Code is amended*
17 *to read:*

18 17630. Except for Article 5, the provisions of this part shall
19 be applicable to claims for state reimbursement of costs mandated
20 by the state on and after January 1, 1985. All claims for state
21 reimbursement filed under Article 1 (commencing with Section
22 2201), Article 2 (commencing with Section ~~2225~~), 2227), and
23 Article 3 (commencing with Section 2240), ~~Article 3.5~~
24 ~~(commencing with Section 2250), and Article 3.6 (commencing~~
25 ~~with Section 2256)~~ of Chapter 3 of Part 4 of Division 1 of the
26 Revenue and Taxation Code ~~which~~ *that* have not been included in
27 a local government claims bill pursuant to Section 2255 of the
28 Revenue and Taxation Code enacted before January 1, 1985, shall
29 be transferred to and considered by the commission pursuant to the
30 provisions of this part.

31 ~~amended to read:~~

32 ~~17556. The commission may not find costs mandated by the~~
33 ~~state, as defined in Section 17514, in any claim submitted by a~~
34 ~~local agency or school district, if, after a hearing, the commission~~
35 ~~finds that:~~

36 ~~(a) The claim is submitted by a local agency or school district~~
37 ~~that requested legislative authority for that local agency or school~~
38 ~~district to implement the program specified in the statute, and that~~
39 ~~statute imposes costs upon that local agency or school district~~
40 ~~requesting the legislative authority. A resolution from the~~

1 ~~governing body or a letter from a delegated representative of the~~
2 ~~governing body of a local agency or school district that requests~~
3 ~~authorization for that local agency or school district to implement~~
4 ~~a given program shall constitute a request within the meaning of~~
5 ~~this paragraph.~~

6 ~~(b) The statute or executive order affirmed for the state that~~
7 ~~which had been declared existing law or regulation by action of the~~
8 ~~courts.~~

9 ~~(c) The statute or executive order implemented a federal law or~~
10 ~~regulation and resulted in costs mandated by the federal~~
11 ~~government, unless the statute or executive order mandates costs~~
12 ~~that exceed the mandate in that federal law or regulation.~~

13 ~~(d) The local agency or school district has the authority to levy~~
14 ~~service charges, fees, or assessments sufficient to pay for the~~
15 ~~mandated program or increased level of service.~~

16 ~~(e) The statute, executive order, or appropriation in a Budget~~
17 ~~Act or other bill provides for offsetting savings to local agencies~~
18 ~~or school districts that result in no net costs to the local agencies~~
19 ~~or school districts, or includes additional revenue that was~~
20 ~~specifically intended to fund the costs of the state mandate in an~~
21 ~~amount sufficient to fund the cost of the state mandate.~~

22 ~~(f) The statute or executive order imposed duties that were~~
23 ~~expressly included in a ballot measure approved by the voters in~~
24 ~~a statewide election.~~

25 ~~(g) The statute created a new crime or infraction, eliminated a~~
26 ~~crime or infraction, or changed the penalty for a crime or~~
27 ~~infraction, but only for that portion of the statute relating directly~~
28 ~~to the enforcement of the crime or infraction.~~